

STEP 2: What is the date of commencement?

NOTES

Section 3A of AIA gives authority that:

- i. This section does not apply if an act **provides commencement date**
- ii. An act (other than to alter constitution) commences on the **28th day after** the day on which that Act **receives the Royal Assent** (e.g. Royal assent on 1st July, commencement count begins on 2nd July)
- iii. An act to **alter the Constitution** commences on the day on which the Act receives the Royal Assent

Example: **Racial Discrimination Act 1975: Commencement**

(1) Sections 1, 2 and 7 shall come into operation on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act shall come into operation on a day to be fixed by Proclamation, being a day not earlier than the day on which the Convention enters into force for Australia.

Response A or B:

A. If there IS a specified commencement date (note: usually “date of assent”):	The legislation was assented to on <insert royal assent date>. Section 3A(3) AIA provides that an act commences 28 days after assent unless <u>stated otherwise</u>. <Insert section specifying commencement> sets the commencement as the date of assent. Therefore, the act applies to this scenario. Laws are prospective unless explicitly retrospective.
B. If there is a NO specified commencement date :	The legislation was assented to on <insert royal assent date>. Section 3A(3) AIA provides that, absent a specified commencement, the act begins 28 days after assent, i.e., <insert date>. Therefore, the act applies to this scenario. Laws are prospective unless explicitly retrospective.

3: What approach Court take interpreting Act?

NOTES

! When identifying the rules, simply state the interpreting act elements that apply, do not analyse them yet, only state the rules

- a. What is the **preferred interpretation** that best achieves the **purpose** of the Act? [Section 15AA of AIA states that an interpretation that best achieves the purpose is preferred to other interpretations]
- b. State that words can be given their **ordinary meaning** in term of the context
- c. **Extrinsic materials** may be used to assist in interpreting meaning [Section 15AB states any material not forming part of the Act is capable of assisting in the ascertainment of the meaning of the provision]

<ONLY IF SPECIFIC QUESTION>

Response: Theory only

In interpreting an Act, the **modern approach** focuses on what 'best achieves the **purpose** or object of the act', whether or not expressly stated in the act (s 15AA AIA). Section 13 AIA allows for considering the **entire Act** in interpretation. The grammatical meaning is a starting point but can be adjusted if it misaligns with the legislation's purpose (Kingston; Project Blue Sky). Courts assess the context broadly, considering it '**in its widest sense**' (CIC).

Section 15AB AIA, permits using **extrinsic materials** to **clarify meaning and resolve ambiguities**. Context can lead to interpretations that better fit the statute's purpose without being unreasonable (Project Blue Sky; Momcilovic v The Queen).

Unlike the **literal approach** used until the 1980s (Engineers), the **contextual approach** can be applied from the **outset** (K&S Lake City Freighters) and does not require ambiguity (CIC).

The **purposive and contextual approaches** are inextricably linked concepts and together form the **modern approach** (Brown) which **reflects legislative intent** (s 15AA AIA) while **preventing unreasonable interpretations** (Woolley). It allows legislation to adapt to **social changes** (Gee; Sheahan).

Courts may use techniques such as **reading in** (Bermingham v Corrective Services), **reading down** (Tokyo Mart Pty Ltd v Campbell), **straining** (Newcastle City Council v GIO General Ltd), and **reading up** (R v PLV) to guide interpretation.

In this case the court is likely to interpret the provisions in the Act by looking at the **purpose and object** of the <insert Act>, examining the **Act as a whole 'in its widest sense'**.

This would mean considering the **intrinsic and extrinsic** material that help guide interpretation and alignment with the intent and object of the Act. When interpreting the rights and obligations under <insert Act>, the courts would align their interpretation of specific provisions with the intent, purpose and context to ensure the Act is achieving its objective purpose.

<If the Question is asking how does the court approach an "Issue"/"Action" – go to STEP X Issue>

4 What is the **purpose** of the act?

Purpose of act is unclear / what is the purpose:

→ Question: what is the dominant purpose of the Act?

Look at **INTRINSIC MATERIAL** eg 'object' section of Act

→ then wider look at **EXTRINSIC MATERIAL** (EM, speeches, media)

Response

To determine an Act's **purpose when unclear**, the **modern approach** focuses on what "best achieves the purpose" (s 15AA AIA).

Section 13 AIA allows for interpreting the **entire Act**. The **grammatical meaning** is a starting point but may **be adjusted if it conflicts with the purpose** (Kingston; Project Blue Sky). Courts interpret **context broadly**, using **intrinsic and extrinsic** materials for guidance.

1. Intrinsic material

Looking at the **intrinsic materials**, **section 13 AIA** considers that **all material from the first section of the act to the last section are part of the act**, and available to be interpreted.

The <insert Act name> meaning should be considered through **the natural and ordinary meaning of every passage in the document**, looking at the act 'as a whole' (Metropolitan Gas).

Every word should **convey meaning, and be made 'useful and pertinent'** (Baume).

PROMPTS ⚠

<select ANY relevant>

Is there a long title If yes →	The Act may state its purpose in the long title, which reflects the legislation's intentions and policy. It identifies the government's objective, but judicial opinions are irrelevant (CPCF v Minister for Immigration and Border Protection, Crennan J) Looking at the long title (s 13(2)(a) AIA), the 'long title' states <insert>.
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Is there an ' object ' section If yes →	The purpose may be stated expressly in the legislation (e.g., objects section – <i>Mills v Meeking</i>), but it is not absolute (<i>Carr v WA</i>). Like any provision, it must be read in context (<i>WBM – Chief Cmmr of Police</i>). The ' object ' section in <insert section reference> states <insert what section says>.
Is there a ' preamble ' section? If yes → >	The preamble introduces the document, outlining its background and purpose. It provides context and can clarify ambiguous provisions (s 13(2)(b) AIA). Here, the preamble states: <insert preamble words>.

Further, by examining the act as a whole (*Project*), and extending the analysis to **headings, preambles, and other provisions (such as penalties)** can aid interpretation.

In this case, the following sections prove helpful to provide guidance

<select ANY relevant – 2 x is adequate – if too hard SKIP>

<write this>	<write this>
Headings <Try this one 1 st >	The headings (allowed under s 13(2)(d)) relate to <insert some headings and sections> This suggest <insert how helps understand the scope of the Act>
Definitions	in section <insert section number> helps see who the law intends to regulate and what situations it covers. This is critical for determining the scope and focus of the legislation. Specifically, <what terms highlight who Act applies to>
Exclusions “act does not apply to...” <Try this one 2 nd >	In section <insert section number > shows what is not cover by the Act. In this case, the Act does not apply where <insert any exclusions>
Specific rights/obligations of parties /agencies <Try this one 3 rd >	Sections detailing the rights and obligations of parties involved and its aim to balances the interests of different stakeholders. Specifically, section <insert any sections that apply to specific parties eg tenants / landlords> highlight who/what the Act applies to.
Penalties	emphasise the seriousness of breaches and the need for compliance. Severe penalties indicate strict enforcement to protect rights and deter wrongful actions.
Offences	indicates which behaviours are considered unacceptable and punishable under the law. Section <insert section number and paraphrase what states as an offence>
Application	specifies the when and how the Act comes into effect. It ensures clarity on how the law interacts with existing legal relationships and structures.

The **intrinsic elements** of **<insert Act>**'s can **clarify its purpose**.

In reviewing these sections there **<select A or B>**:

A Purpose CLEAR	is a clear interpretation of the purpose , being <insert purpose from object section – try and paraphrase> . Extrinsic materials can further confirm meanings and clarify its intent. Go to Extrinsic Below
B Not clear	Confusion and ambiguity exists regarding the Act's purpose in these provisions. Go to Extrinsic Below

<OPTION IS THERE A CONFLICT OF SECTIONS? IF SO WRITE THIS>

Conflicts in the Act create **uncertainty about its purpose**.

Resolve by identifying dominant and subordinate provisions (**Project Blue Sky**).

Specific provisions override general ones, and later provisions prevail over earlier ones (implied repeal, **Wood v Riley**).

Express subordination appears in phrases like “subject to this Act” (**Maclean SC v Nungera**).

Here, sections **<section>** and **<section>** conflict. The specific provision prevails, showing the Act's main purpose is **<main reason for the act>**.

The **maxim generalia specialibus derogant** confirms that **specific provisions take precedence over general** ones.

ANY MAXIMS??? – if asked GO TO STEP 7